IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 6660 of 2006

Date of Decision: 14.12.2006

Haryana Power General Corporation Ltd. & Ors.

...Petitioners

Vs.

Ved Parkash Batra

...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Gaurav Mohunta, Advocate,
for the petitioners.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order passed by the learned Civil Judge (Junior Division), Faridabad vide which second application moved by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure for rejection of suit for non-payment of advalorem court fee has been rejected.

Learned Trial Court has observed that the previous application moved by the petitioners was allowed and in pursuance thereto the plaintiff-respondents made good the court fee as per the suit framed and therefore, the second application was totally misconceived and accordingly, dismissed the same.

Learned counsel for the petitioners contends that the impugned order cannot be sustained as in the garb of mandatory injunction the plaintiff is, in fact, claiming fixed amount which is allegedly due to him after deducing the amount already paid and therefore, the court fee was required to be paid on the amount claimed. No such plea arises for consideration from the reading of the suit. The court fee has to be paid as per the suit framed. However, in case the petitioners prove that the suit as framed has not been properly valued it would be open to the petitioners to raise this plea at the time of trial of the suit.

(Vinod K.Sharma)
Judge

14.12.2006
rp